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**U.S. Department of Homeland Security**

**Bureau of Citizenship and Immigration Services**

*ADMINISTRATIVE APPEALS OFFICE*

*425 Eye Street N.W.*

*ULLB, 3rd Floor*

*Washington, D.C. 20536*

FILE

Office: Nebraska Service Center

Date:

MAY 28 2003

IN RE: Petitioner:  
Beneficiary:

APPLICATION: Petition for Alien Fiancé(e) under Section 101(a)(15)(K) of the  
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(K)

ON BEHALF OF PETITIONER: Self-represented

**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.



Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The nonimmigrant visa petition was denied by the Director, Nebraska Service Center, and is before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained.

The petitioner is a native of Iraq and naturalized citizen of the United States. The beneficiary is a native and citizen of Iraq. The petitioner seeks to have the beneficiary classified as a nonimmigrant fiancé under section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K).

The petition was initially approved and forwarded to the Consular Section of the U.S. Embassy in Amman. Upon interviewing the beneficiary, the consular officer determined that the beneficiary appeared to have entered into the engagement with the petitioner solely for the purpose of immigrating to the United States. The adverse information indicated that (1) the beneficiary claims to have known the petitioner since he was 16 years old but did not propose until after she became a U.S. citizen; (2) the beneficiary claimed to have known the petitioner since 1987 but failed to provide supporting documentation; (3) the male beneficiary is 15 years younger than the petitioner and such marriages in Arab or Jordanian culture are generally held as farcical; and (4) the beneficiary is unemployed and the petitioner is not the joint sponsor.

The director denied the petition after determining that the petitioner had failed to meet the burden of proof that there is a bona fide intention to enter into a valid marriage.

On appeal, the petitioner states that the beneficiary was a minor prior to her naturalization and his father was ill. This caused a postponement of their engagement until his father passed away in 2001. On appeal, the petitioner further states that supporting documentation was submitted to the consular officer. That documentation is not present in the record for review. In addition, the petitioner explains that she and the beneficiary are Chaldeans and not Arab or Jordanian. She states that their culture is very different. The petitioner asserts that she feels discriminated against because she is an older woman and is being sent a message that it is unusual for an older woman to marry a younger man. She asserts that for engagements where the man is often twenty years or more older than the woman, no thought is given to the difference in age.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1101(a)(15)(K), provides nonimmigrant classification to an alien who:

- (i) is the fiancé(e) of a U.S. citizen and who seeks to enter the United States solely to conclude a valid marriage with that citizen within 90 days after admission;

- (ii) has concluded a valid marriage with a citizen of the United States who is the petitioner, is the

beneficiary of a petition to accord a status under section 201(b)(2)(A)(i) that was filed under section 204 by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or

(iii) is the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien.

Section 214(d) of the Act, 8 U.S.C § 1184(d), provides that a visa shall be issued under the provisions of section 101(a)(15)(K)(i) of the Act...only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition, have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of 90 days after the alien's arrival....

The AAO finds that the petitioner has overcome the reasons for denial on appeal. The reasons for the denial were largely speculative and partially irrelevant. 1) Caring for an ill father is a valid reason for postponing an engagement. 2) The entire record is not available for review, so the AAO can neither rebut nor confirm the statement that the beneficiary provided letters and phone bills. However, this is found not relevant given the other evidence in the record. 3) Jordanian and Arabic cultural norms are not relevant to a discussion of [REDACTED] from Iraq. The petitioner is correct in her assertion that age differences should not be taken into account just because she is a woman. 4) The fact that the beneficiary is unemployed is not relevant. There is no financial documentation necessary in the adjudication of a fiancé petition.

In visa petition proceedings, the petitioner bears the burden of proof of establishing the beneficiary's eligibility for the benefits sought. *Matter of Brantigan*, 11 I&N Dec. 493 (BIA 1966). In this case, the petitioner has met that burden. Therefore, the appeal will be sustained.

**ORDER:** The appeal is sustained.